

REMARKS

Claims 1-38 are pending in the application and have been rejected. With this amendment, various claims have been amended in order to further define the present invention. No new matter has been added and subject matter of the amended claims can be found throughout the specification, including the drawings. For example, the limitation added to claim 1 is shown in at least FIG. 1 and described in the specification on at least page 6, first full paragraph through page 8 second full paragraph. The limitation added to independent claim 23 is set forth in at least FIG. 1 as well as in the specification on page 7, fourth full paragraph through page 8 second full paragraph.

The Abstract has been objected to for containing phrases which can be implied and the Examiner has requested correction. In order to have the objection removed, the phrase "is described" has been removed from the Abstract.

The drawings have been objected to because reference character 100 mentioned on page 9, line 3, of the application is not in any of the drawings. In order to have this objection removed, page 9, line 3 has been amended to exclude reference to character 100.

The drawings have been objected to under 37 CFR §1.83(a). The Examiner states that the brush and sponge claimed in claim 16 must be shown or the features canceled from the claim. Accordingly, corrected drawings are submitted herewith with FIGS. 6A and 6B illustrating the brush and sponge claimed in claim 16. No new matter has been added as only a brush and a sponge are shown as disclosed in the original specification. Removal of the objection to the drawings is respectfully requested.

Page 8, line 3, of the specification has been amended to correct the typographical error regarding shoulder 27.

The specification has been objected to as failing to provide proper antecedent basis for subject matter claimed in claims 14 and 15 relating to composition of the upper portion housing, center reservoir portion, lower cap portion and pleated sleeve portion. Page 5, first full paragraph has been amended to provide proper antecedent basis for the claimed subject matter. Removal of the objection is respectfully requested.

Claims 3 and 8 have been amended to further define the present invention as suggested by the Examiner.

Claims 10-12, 25-29, 31, 33, 36 and 37 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 has been amended to remove reference to the piston head thereby rendering the rejection moot. Claim 11 has been amended to depend on claim 8 instead of claim 10. Regarding claim 25, as the plunger has been added to independent claim 23, the rejection to claim 25 and claims dependent thereon has been rendered moot. Removal of the 35 U.S.C. §112 rejections is respectfully requested.

Claims 1, 2, 8, 10-13, 16, 17, 19, 20-23, 30 and 35 have been rejected under 35 U.S.C. §102(b) as being anticipated by Ford. The Examiner states that Ford discloses all limitations of the rejected claims.

It is respectfully submitted that the Ford reference cannot anticipate, nor teach or suggest the present invention as claimed. Ford relates to a dispenser for dispensing metered amounts of viscous material which includes a rigid tube defining a compartment for the material, a discharge passage at one end of the tube, a push button activated in reciprocating removable rod which moves back and forth between two positions of the tube, see Abstract. Plunger 60 of Ford cited by the Examiner is actually a part of the Ford center toothed shaft or rod 14. Column 5, lines 57-58, states that "Rod 14 is formed of a main section 58 and a rod extension 60." Antipodally, as shown in FIG. 1 of the current application and described throughout the specification, plunger 40 is generally cylindrical and has a hollow portion with a portion of shaft 60 extending therethrough. As stated on page 8, first and second full paragraphs, push button 22 of upper housing 20 moves toward applicator end until shoulder 27 contacts plunger 40 which includes ratchet drive spring 80 that engages shaft 60, moving the same forward and driving piston head 70 a distance into center reservoir 14 whereby a substance is discharged through applicator 90. Independent claim 1 has been amended to further define that the plunger includes a cylindrical portion which is hollow and wherein the center tube shaft extends through at least a portion of the plunger. Ford cannot anticipate, nor teach or suggest the same, as Ford plunger or rod extension 60 is not hollow and is attached directly to an end of main section 58 of rod 14.

Ford also cannot anticipate, nor teach or suggest independent claim 23 or claims dependent therefrom. Independent claim 23 has been amended to further define that the dispensing device includes a pair of springs which maintain the upper housing a distance away from an end of a plunger in a non-depressed condition and which maintain the plunger a distance away from an internal flange 86 when the upper housing is in the non-depressed condition. The non-depressed condition is illustrated in FIG. 1. Further support for the claim amendment is found

in the application on at least page 7, third full paragraph through page 8, second full paragraph. As described on page 8, first full paragraph, upon release of push button 22, compression spring or second spring 82 retracts the plunger away from flange 86 as illustrated in FIG. 1 and first spring 25 retracts housing 20 away from end 41 of plunger 40. Shaft 60 is prevented from retracting by ratchet holding spring 84 which is connected to the dispensing device housing as illustrated. The Ford reference lacks Applicant's dispensing device claimed configuration and cannot anticipate, nor teach or suggest Applicant's structure including the pair of springs claimed therein.

Claims 23-25, 30, 35 and 36 have been rejected under 35 U.S.C. §102(b) has being anticipated by Thacker et al (U.S. Patent No. 2,541,949). The Examiner states that Thacker teaches all of the claim limitations of the rejected claims.

It is respectfully submitted submitted that the Thacker reference cannot anticipate, nor teach or suggest the dispensing device claimed in independent claim 23 or claims dependent therefrom. The Thacker reference lacks Applicant's claimed plunger and further a pair of springs which maintain the upper housing a distance away from an end of the plunger in a non-depressed condition as well as maintain the plunger a distance away from an internal flange of the outer cylinder when the upper housing is in the non-depressed condition. Thacker only contains spring 23 which maintains operating member 16 biased away from supply chamber 9 in a non-depressed condition.

Claims 9 and 14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Ford. Claims 3 and 15 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Ford in view of Guzzon (U.S. Patent No. 4,766,272). Claims 4-7 and 18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Ford in view of Snyder. Claims 26-29, 31 and 37 have

been rejected under 35 U.S.C. §103(a) as being unpatentable over Thacker in view of Guzzon. Claims 32, 34 and 38 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Thacker in view of Delage (U.S. Patent No. 6,746,170). Claim 33 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Thacker in view of Guzzon. The Examiner states that the noted claims are obvious in view of the applied references.

It is respectfully submitted that Applicant's claims cannot be taught or suggested utilizing the references cited by the Examiner. The Ford and Thacker references have already been discussed hereinabove. The Guzzon reference relates to a sealed push button switch mounted at the end of a movable control member, see Abstract. Guzzon lacks any teaching of a dispensing device, especially the dispensing device including a reservoir. There is no teaching in Guzzon especially for Applicant's claimed shaft and plunger arrangement which is utilized to drive a piston head in order to dispense a substance of an applicator as claimed in at least independent claim 1. Further, Guzzon cannot teach or suggest Applicant's dispensing device claimed in independent claim 23, and especially the claimed spring arrangement.

Likewise, the Snyder reference relates to a cylindrical container having a dispensing opening at one end and an ejecting piston slidably therein, see Abstract. Snyder cannot teach or suggest alone, or in combination with Ford, Applicant's claimed shaft and plunger arrangement which is utilized to drive a piston head in order to dispense a substance of an applicator as claimed in at least independent claim 1. Likewise, Snyder cannot teach or suggest Applicant's dispensing device claimed in independent claim 23, and especially the claimed spring arrangement.

The Delage reference relates to a device that includes a piston driving mechanism having a first element turnable relative to the second element to cause axial displacement of the piston in the housing. The Delage reference cannot teach or suggest Applicant's independent claim 23 or claims dependent therefrom.

In view of the present Amendment, it is believed that all of the Examiner's objections have been overcome. Accordingly, a Notice of Allowance is respectfully requested. Should the Examiner have any questions or concerns regarding this response, a telephone call to the undersigned is greatly appreciated in order to expedite allowance of the application.

The Commissioner is hereby authorized to charge any fees which might be required or credit any overpayment of fees with regard to the attached document(s) to Deposit Account No. 08-3150.

Respectfully submitted,

HUDAK, SHUNK & FARINE CO. L.P.A.



Daniel J. Hudak  
Registration No. 25,879

DJH/s

2020 Front St., Suite 307  
Cuyahoga Falls, OH 44221  
330-535-2220

Attorney Docket No. BONNE-B